

NOMINATIONS OF MEADE WHITAKER, JULES G. KÖRNER III, AND PERRY SHIELDS

HEARING BEFORE THE COMMITTEE ON FINANCE UNITED STATES SENATE NINETY-SEVENTH CONGRESS FIRST SESSION ON NOMINATIONS OF MEADE WHITAKER, JULES G. KÖRNER III, AND PERRY SHIELDS TO BE U.S. TAX COURT JUDGES

DECEMBER 2, 1981

Printed for the use of the Committee on Finance



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(II)

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(III)

**NOMINATIONS OF MEADE WHITAKER, JULES G. KÖR-
NER III, AND PERRY SHIELDS TO BE JUDGES OF
THE U.S. TAX COURT**

WEDNESDAY, DECEMBER 2, 1981

**U.S. SENATE,
COMMITTEE ON FINANCE,
*Washington, D.C.***

The committee met, pursuant to call, at 9 a.m., in room 2221, Dirksen Senate Office Building, Hon. Robert Dole (chairman) presiding.

Present: Senators Dole, Packwood, and Bentsen.

[The committee's press release and the letters from the Judicial Ethics Committee follow:]

Press Release No. 81-184

P R E S S R E L E A S E

FOR IMMEDIATE RELEASE
November 20, 1981

COMMITTEE ON FINANCE
UNITED STATES SENATE
2227 Dirksen Senate Office Bldg.

SENATE FINANCE COMMITTEE SCHEDULES HEARINGS
ON NOMINATIONS OF MEADE WHITAKER, JULES G. KÖRNER, III,
and PERRY SHIELDS TO BE U.S. TAX COURT JUDGES

The Honorable Robert J. Dole, Chairman of the Committee on Finance, announced today that the Committee has scheduled hearings on the nominations of Meade Whitaker, Jules G. Körner, III, and Perry Shields to be judges of the United States Tax Court.

The hearings are scheduled for December 2, 1981, beginning at 9:00 a.m. They will be held in Room 2221, Dirksen Senate Office Building.

Immediately following the hearings, the Committee will meet in executive session to consider the nomination of Messrs. Whitaker, Körner and Shields.

Judicial Ethics Committee

Judicial Conference
of the
United States

Alfred A. Arraj
John D. Butner, Jr.
A. Sherman Christensen
Bernard H. Decker
Edward Charles Gignoux
Frank M. Johnson, Jr.
William Wayne Justice
Prentice H. Marshall
John H. Pratt
Edward Allen Tamm
(Chairman)

November 18, 1981

U. S. Courthouse
Room 5128
Washington, D. C. 20001

NOV 23 '81



MEADE WHITAKER
Assistant General Counsel

Meade Whitaker, Esq.
Ford Motor Company
The American Road
Dearborn, Michigan

My dear Mr. Whitaker:

By reference from Richard A. Hauser, Deputy Counsel to the President, I have received the Financial Disclosure Report SF 278 which you recently executed. In behalf of the Judicial Ethics Committee, I am placing this form in the Committee files both to indicate that you have, in accord with the statutory requirement, filed your form with this Committee, and in order that it will be available if requested by the Senate Committee considering your nomination.

Sincerely,

Edward Allen Tamm
Chairman

EAT:amh

NOVEMBER 18, 1981.

LUTHER P. SHIELDS, Esq.,
800 Gay Street,
United American Plaza,
Knoxville, Tenn.

MY DEAR MR. SHIELDS:

By reference from Richard A. Hauser, Deputy Counsel to the President, I have received the Financial Disclosure Report SF 278 which you recently executed. In behalf of the Judicial Ethics Committee, I am placing this form in the Committee files both to indicate that you have, in accord with the statutory requirement, filed your form with this Committee, and in order that it will be available if requested by the Senate Committee considering your nomination.

Sincerely,

EDWARD ALLEN TAMM,
Chairman.

NOVEMBER 18, 1981.

JULES G. KÖRNER III, Esq.,
888 17th Street NW.,
Washington, D.C.

MY DEAR MR. KÖRNER:

By reference from Richard A. Hauser, Deputy Counsel to the President, I have received the Financial Disclosure Report SF 278 which you recently executed. In behalf of the Judicial Ethics Committee, I am placing this form in the Committee files both to indicate that you have, in accord with the statutory requirement, filed your form with this Committee, and in order that it will be available if requested by the Senate Committee considering your nomination.

Sincerely,

EDWARD ALLEN TAMM,
Chairman.

The CHAIRMAN. The committee will be in order.

I would like to welcome you, gentlemen, to the Finance Committee. You have been nominated by the President to become judges of the U.S. Tax Court.

I think, as a preliminary matter for the record, I have reviewed each nominee's financial disclosure form and materials they filed with the Judicial Ethics Committee of the Judicial Conference. I am satisfied that there are no problems in this area.

Each of the nominees have a broad range of experience in the field of Federal taxation. Their experience and judgment, as well as their legal knowledge, will be of great value to the Tax Court in performance of its responsibilities.

Meade Whitaker, of Michigan, most recently assistant general counsel, Federal taxes of the Ford Motor Co., has had a distinguished career of Government service, including service as Chief Counsel of the Internal Revenue Service of the Treasury Department. He also served with the Marine Corps in the South Pacific during World War II.

Jules Körner, of the District of Columbia, served in the Navy during World War II, also in the Pacific, and a long and varied career in the practice of the law, including distinguished service with the District of Columbia Bar Association. He published papers in the field of taxation, and was an adjunct professor of law at Georgetown University here in the District from 1963 to 1968.

Perry Shields of Knoxville, Tenn., served in combat with the Army in Europe during World War II. He has had extensive experience in the administration of the revenue laws on both sides of the fence, having served in a variety of positions with the Internal Revenue Service in the Southeast, and having enjoyed an unusually extensive tax practice representing clients before the IRS and Federal courts. He is also the chairman of the taxation section of the Tennessee Bar Association.

We welcome all three of you this morning, and maybe there are members of your family that you would like to introduce. We will start with Mr. Whitaker, then Mr. Shields, and then Mr. Körner.

Mr. WHITAKER. I have with me my daughter, Frances Scoonover, and her husband, Reginald Scoonover.

Mr. SHIELDS. I have with me my wife, Bonnie Shields.

The CHAIRMAN. Welcome.

Mr. KÖRNER. I have with me my wife Jean Körner, and my son, Jules IV, and my daughter Kathryn Edwards, sitting in the back.

The CHAIRMAN. We welcome all of you to the committee.

Let me start with Mr. Whitaker. Do you have any statement that you would like to make, or anything that you would like to say to the members of the committee here, or to others who may read the record?

Mr. WHITAKER. Nothing other than I am looking forward to serving on the Tax Court. It is a very challenging and worthwhile endeavor, and I think I can contribute something to it. I will be glad to answer any questions.

The CHAIRMAN. I may have a couple of questions.

Mr. Shields.

Mr. SHIELDS. Needless to say, Mr. Chairman, I am happy to be here, and I am also honored to actually be considered, let alone nominated, for this position. If your committee and the Senate sees fit to confirm it, I will do the very best I can to carry out my responsibilities. I will be glad to answer any questions, or furnish any information which the committee may wish to have.

The CHAIRMAN. Mr. Körner.

Mr. KÖRNER. Mr. Chairman, I think that every lawyer who really loves the practice of law probably ought to aspire to the bench, and I am certainly one of those. I think it should be an honor that any serious practitioner looks forward to. I consider myself honored to be here. I hope I will do a good job.

The CHAIRMAN. Senator Packwood, do you have any questions?

Senator PACKWOOD. No questions. I have had a chance to read the résumés, and the Tax Court is lucky to be getting you three gentlemen. I am delighted that you are willing to leave what are obviously very successful practices and come to a court that is vastly underestimated by the public, or unknown, I should say, by the public, that does a very critical job. The three of you will add great luster to it.

The CHAIRMAN. Senator Bentsen.

Senator BENTSEN. This is not a question, but my concern for the court itself. You gentlemen are before us because we expanded that court from 16 members to 19 members, and that is the first expansion of that court in 39 years, as I understand.

From 1976 to 1980, I am also told that the workload of the court has almost doubled, and from the time you file a case to the time that it is disposed of, it is about 3 years, naturally denying justice. I know you three gentlemen by yourself sure can't turn that around, but I don't know what in the world you judges are going to do to try to see if we can't get some breakthrough in the management practices where we can get more expeditious handling of our cases.

You gentlemen have been in the profession for a substantial number of years, and all three of you are quite successful. I hope that you will be able to come up and the judiciary itself can come up with some dramatic changes and breakthroughs that will still achieve the objectives of the judiciary, but change the process in some way where we can expedite it. Whatever contribution you can make to it, I think, will be a service to our country.

Do you have any comments that you would like to make? Have any of you been involved through your bar associations with this question?

Mr. WHITAKER. Senator, if I may inject a remark. All of us are aware of the terrible backlog problem that the court has. When I left as chief counsel, their backlog of cases was something like 20,000, which was unmanageable then, and it is now close to 40,000. It is a problem which I think the tax bar and the Treasury Department and the courts are going to have to try to solve. Certainly, all of us are going to do everything we can to assist in solving the problem.

Senator BENTSEN. I don't think you can nibble at the edges of it. I think you have to do something very revolutionary; I know that kind of word shakes up lawyers. I have a law license, and I have

gotten myself a degree, but I certainly don't consider myself a lawyer. Maybe I am far enough away from it that I can see the problem more clearly than some of the fellows that are involved in it every day.

I do think that it is a very serious problem in our country.

Mr. SHIELDS. I completely agree, Senator. All three of us here have conducted active practice before this court, and we are bothered as private practitioners by the length of time it takes to get a decision. At the same time, I don't think there is any easy snap solution. I think the problem is composed of several pieces, including the fact that people nowadays seem to be more litigious than they were.

Senator BENTSEN. There are more lawyers than there used to be.
[General laughter.]

Senator BENTSEN. About all that my legal training taught me was to hire a good lawyer.

Thank you very much.

The CHAIRMAN. As Senator Bentsen has indicated, there is a substantial backlog in cases right now, and I assume the judges are quite eager to see the court up to full strength.

I might ask each of you if you are going to be able to begin work as soon after confirmation as possible?

Mr. WHITAKER. I expect to be able to come down here to go to work certainly no later than the middle of January, Mr. Chairman.

Mr. KÖRNER. I would estimate, Mr. Chairman, 4 and 6 weeks after confirmation, as obviously I have a number of active cases that I have a professional responsibility to take care of, wrapping those cases off, and handing them over to my partners and making other suitable arrangements.

The CHAIRMAN. Mr. Shields.

Mr. SHIELDS. Mr. Chairman, I have a small firm, four lawyers, mostly handling business generated by me over the years, and it is going to take me a little longer, I am afraid, to leave than Mr. Whitaker and Mr. Körner. But I am actively working on it, and fortunately I have a daughter who is one of those four lawyers who will stay there, and either by merger with some other firm, or by taking more people in, I hope to hire by sometime in February.

The CHAIRMAN. I have no further questions.

I have indicated that the records that have been furnished for the record are satisfactory.

Senator Bentsen or Senator Packwood, do you have any further questions?

[No response.]

Mr. KÖRNER. Thank you, Mr. Chairman.

The CHAIRMAN. We appreciate it very much, and we will hopefully report the nominations to the Senate floor today, and act on the nominations sometime this week or early next week. So we look forward to seeing you in January or February, whenever you are able to take care of your affairs. We also understand the backlog that Senator Bentsen mentioned.

We appreciate very much your being here, your service to the court. We welcome you again and thank the members of your family for coming. This may be the most painless part of your new assignment.

Mr. KÖRNER. Thank you very much, Mr. Chairman.

[The résumés of the nominees Meade Whitaker, Jules Körner III, and Perry Shields follow:]

RESUME OF MEADE WHITAKER

Home

25310 Canterbury
Franklin, Michigan 48025
Telephone: 313-851-7984

Business

Ford Motor Company
World Headquarters
Room 1057
The American Road
Dearborn, Michigan 48121
Telephone: 313-323-1500

EXPERIENCE

August 1978 -
Present

Federal Taxes Director, Office of the General Counsel, Ford Motor Company. Responsibly includes federal income, payroll and excise tax matters for Ford consolidated group.

February 1977 -
August 1978

Tax partner, Arter and Hadden, Cleveland, Ohio, resident in Washington, D. C. office during period August 1977 to August 1978.

September 1973 -
January 1977

Chief Counsel, Internal Revenue Service, Treasury Department.

July 1969 -
October 1970

Tax Legislative Counsel, Treasury Department.

April 1948 -
July 1969

Associate with and partner (from 1953) in law firm of Cabaniss & Johnston, Birmingham, Alabama (now Cabaniss, Johnston, Gardner, Dumas & O'Neal). Practice at various times included conventional real estate matters, state public service commission administrative practice; estate, gift and probate; non-jury state and federal district court litigation and appellate practice; Tax Court practice; general corporate law; and state, local and federal taxation.

October 1970 -
September 1973

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Resume of Meade Whitaker
Page 2

Continued

Corporate work has included representation of manufacturing, service, financial and utility companies, with experience in corporate organization and reorganization; acquisitions; real estate development; timber; financing, including municipal bond financing; leasing; hotels and non-profit organizations. Limited legal work in anti-trust, securities, labor and bankruptcy areas. For most of period, primary emphasis was on federal taxation and general corporate matters.

EDUCATION

Grammar and preparatory schools in New York and Connecticut.
Graduated Yale University, B.A. with honors 1940.
University of Virginia, L.L.B., 1948.
Board of Editors of Virginia Law Review;
Order of the Coif; Class standing - first;
The Raven Society; Phi Delta Phi.

MILITARY SERVICE

1941 - 1946

U. S. Marine Corps, 2-1/2 years in South Pacific area; returned to inactive duty as Major, U.S. M. C. R.

MEMBER

Alabama, District of Columbia, Michigan and American Bar Associations; Section of Taxation of A. B. A. (Member of Council for three year term); American Law Institute; Tax Management Advisory Board on Estates, Gifts and Trusts.

PERSONAL

Born Washington, D. C., March 22, 1919.
Married, two married children.

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PERSONAL HISTORY
Jules Gilmer Körner, III

Born at Washington, D.C. on July 27, 1922.

Education - Saint Albans School, Washington, D.C.
University of Virginia (college)
(Intermediate Honors and Dean's List)
A.B. 1943
University of Mexico (Mexico, D.F.)
(Summer School, 1941)
University of Virginia (Law School)
(Dean's List)
LL.B. 1947; J.D. 1970

Military Service - Commissioned Ensign, USNR, in 1943. Served in Amphibious Forces as Commanding Officer of amphibious landing ship 1943-1946, in various places, including Pacific theatre and Japan. Resigned as Lieutenant, USNR, in 1960. Past Commanding Officer (1955-1956) of Naval Reserve Material Company W-2, under Office of Naval Materiel.

Legal Practice - Private practice in Washington, D.C. from 1947 to present, specializing in matters of Federal and State taxation. From 1947 to 1970, associate and later partner in firm of Blair, Körner, Doyle and Worth. (Later Körner, Doyle, Worth & Crampton). From 1970 to present, partner in firm of Pope Ballard & Loos. From 1963 to 1968, served as Adjunct Professor of Law at Georgetown University, teaching a post graduate course in business planning. For four months in 1961, served as tax member of a private mission employed by the Government of Ecuador, giving technical assistance to the Internal Revenue Service of that country in a project to overhaul its income tax system.

My practice over these years has consisted of administrative practice, advice in connection with corporate reorganizations, estate planning, trust and estate administration, tax problems of cooperatives, and the like. Court room litigation was also involved, covering various aspects of tax law such as: family partnerships, civil fraud cases, corporate tax issues, estate tax issues, and other tax

problems. Samples of representative cases in which I participated are:

Louis Feingold, 15 TCM 1119 (1956)
Avon Privett, 12 TCM 1189 (1953)
Slaymaker Lock Co. v. Commissioner, 208 F.2d
 313 9CA 3, 1953)
Bahen & Wright, Inc. v. Commissioner, 176 F.2d
 538 (CA 4, 1949)
Estate of Eli Garber v. Commissioner, 271 F.2d
 97 (CA 3, 1959)
Joyce Greer Crespo v. United States, 399 F.2d
 191 (Ct. Cls. 1968)
Estate of Herbert Lee, 12 TCM 83 (1953)
Denver & Rio Grande W. RR Co., v. United States,
 318 F.2d 922 (Ct. Cls. 1963)
Ramon R. Santiago, 61 TC 53 (1973)
Helen R. Solano, 62 TC 562 (1974)
Leonard J. Ruck, Inc., 28 TCM 63 (1969)
Braddock Land Co., et al., 75 TC - 426 (1980)

Admitted to practice in courts of:

Virginia
 District of Columbia
 Maryland
 United States Supreme Court
 Court of Appeals, D.C.
 Court of Appeals, Fourth Circuit
 Court of Appeals, Third Circuit
 Court of Appeals, Tenth Circuit
 United States Tax Court
 Court of Claims

Board of Directors, D.C. Bar Association, 1961-1962; Chairman,
 (1960-1961) Section of Administrative Law, D.C. Bar Association;
 and past chairman of the following committees of that Section:
 Section Organization, Publications, Agency Hearings, Legislation.

In the American Bar Association, present member of Committee on
 Court procedure of the Section of Taxation.

Have lectured and/or written papers from time to time on tax
 subjects at the University of Virginia, University of South
 Carolina, Tax Institute of America, New York University Annual
 Tax Institute (23rd, 25th and 30th Institutes), the Journal of
 Taxation, the National Society of Accountants for Cooperatives
 (1975, 1977, 1978, 1980), Practicing Law Institute, and New
 York Law Journal Seminars-Press.

Nominated by President Ford to be a judge of the United States Tax Court in June, 1976. Nomination expired December 31, 1976, the Senate having taken no action on the nomination.

Married: Two Children

Organizations:

Kappa Sigma Fraternity
 Phi Delta Phi Legal Fraternity
 American Bar Association
 (Section of Taxation and Section of Litigation)
 Bar Association of the District of Columbia
 (Administrative Law Section)
 Virginia State Bar (Section of Taxation)
 Virginia Bar Association
 International Bar Association
 Inter-American Bar Association (Fiscal Law Committee)
 National Council of Farmer Cooperatives, Legal, Tax
 & Accounting Committee (Subcommittee Chairman,
 1973-1981)
 National Society of Accountants for Cooperatives

Personal References -

Scott P. Crampton, Esq.
 Bogan and Freeland, Washington, D.C.
 K. Martin Worthy, Esq.
 Hamel, Park, McCabe & Saunders, Washingt, D.C.
 John S. Nolan, Esq.
 Miller & Chevalier, Washington, D.C.
 Robert H. Knight, Esq.
 Shearman & Sterling, New York, N.Y.
 Mac Asbill, Jr., Esq.
 Sutherland, Asbill & Brennan, Washington, D.C.
 Judge Edward S. Smith
 United States Court of Claims, Washington, D.C.
 George D. Webster, Esq.
 Webster and Chamberlain, Washington, D.C.
 Donald C. Alexander, Esq.
 Morgan, Lewis & Bockius, Washington, D.C.

PERRY SHIELDS

Business: Shields, Rainwater & Humble
Attorneys at Law
2037 United American Plaza
P. O. Box 2775
Knoxville, Tennessee 37901
Telephone 615-525-0321

Residence: 5506 Holston Drive
Knoxville, Tennessee 37914
Telephone 615-525-2947

Personal History

Born January 12, 1925, Townsend, Blount County, Tennessee, the son of Fred David and Alice Dorsey Shields.

Wife, Bonnie Davis Shields, owner of Pioneer House Restaurant, Alcoa Highway, Knoxville, Tennessee.

Children: Bailey D. Shields, special agent for State Capital Insurance Company, Maryville, Tennessee; Leslie Shields, attorney with Shields, Rainwater & Humble, Knoxville, Tennessee; Beth Shields, mechanical engineer, Tennessee Valley Authority, Knoxville, Tennessee.

Military Service

Basic Training U.S. Army Air Force June 1943 to September 1943; U.S. Army Specialized Training Program, Yale University and Princeton University September 1943 to April 1944; Medical Corps, 104th Infantry Division April 1944 to November 1944, including combat in France, Belgium, Holland and Germany from July 1944 to November 1944; wounded November 1944 resulting in amputation of leg and medical discharge in September 1945.

Education

Everett High School, Maryville, Tennessee (1943); Yale University (United States Army, 1943); Princeton University (United States Army, 1944); Duke University (1946-1947); Duke School of Law (1947-1950).

Experience

Revenue Agent, Internal Revenue Service, Knoxville, Tennessee (1950-1952); Claims Attorney, Office of Chief Counsel, Internal Revenue Service, Washington, D. C. (1952-1954); Civil Advisory and Trial Attorney, Office of Regional Counsel, Internal Revenue Service, Atlanta, Georgia and Greensboro, North Carolina (1954-1956).

Individual law practice, Knoxville, Tennessee (1956-1958); Associate with J. Homer Hardy, Tax Attorney and Certified Public Accountant, Chattanooga, Tennessee (1958-1960); Individual practice, Knoxville, Tennessee since 1960, specializing in Internal Revenue taxes, handling during this period more tax cases with the Internal Revenue Service and in the federal courts than all other attorneys in Knoxville combined.

Professional Activities

Member of Knoxville Bar Association, Tennessee Bar Association, American Bar Association, Federal Bar Association, Tennessee Trial Lawyers Association and American Trial Lawyers Association; former chairman of Taxation Section of Tennessee Bar Association and former trustee of Tennessee Federal Tax Institute.

Personal References

The Honorable Howard A. Dawson
Judge
United States Tax Court
400 Second Street, N. W.
Washington, D. C. 20217
Telephone 202-376-2841

The Honorable Richard Ray Ford
Criminal Judge
Knox County Criminal Court
City County Building
Knoxville, Tennessee 37902
Telephone 615-521-2492

Mr. H. Pat Wood
Lawler Wood, Inc.
1300 United American Plaza
Knoxville, Tennessee 37929
Telephone 615-637-7777

Senator PACKWOOD. Mr. Chairman, I would move to report favorably the nomination of these three gentlemen to the Senate.

Senator BENTSEN. I second the motion.

The CHAIRMAN. We are short of a quorum, but we will poll the members. I know of no objection, and will rule on that basis.

[Whereupon, at 9:10 a.m., the committee adjourned, to reconvene in executive session immediately.]

[By direction of the chairman, the following communication was made a part of the hearing record:]



National Council of Farmer Cooperatives

1800 MASSACHUSETTS AVENUE, N.W. • WASHINGTON, D.C. 20036 • TELEPHONE (202) 659-1525

November 25, 1981

The Honorable Robert Dole
Committee Chairman on Finance
U.S. Senate
Washington, D.C. 20510

Dear Senator Dole:

We were delighted to hear that the Committee on Finance will hold hearings on the nomination of Jules G. Körner to be a judge on the United States Tax Court.

Mr. Körner is a recognized authority in tax law and will make a significant contribution to the United States Tax Court.

I have known Mr. Körner for many years and we have sought his advice and counsel on numerous occasions. In addition to his representation of many farmer cooperative clients he has also represented the National Council in tax matters before The Internal Revenue Service.

Having known Mr. Körner personally for a long period it comes as no surprise that he is willing to give up a successful law practice in order to serve his country in The Judiciary. He will bring to the Tax Court not only his knowledge and understanding of the tax laws but also a judicial demeanor which is always needed on the Court.

Therefore, without any hesitation or qualification I feel honored to respectfully recommend to you and the Committee Mr. Körner as a judge for the United States Tax Court.

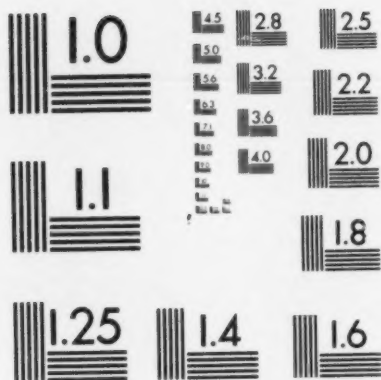
We request that this letter be made a part of the record of the hearings.

Sincerely yours,

Kenneth D. Naden
Kenneth D. Naden
President

KDN:jf





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